

# Exhibit 1

1 HONORABLE FRANKLIN D. BURGESS  
2  
3  
4  
5  
6  
7  
8  
9

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

10 TODD and ANNE ERICKSON, individually and )  
11 the marital community comprised thereof, )  
12 Plaintiffs, )  
13 v. )  
14 MICROAIRE SURGICAL INSTRUMENTS, )  
15 LLC, a Virginia Limited Liability Company doing )  
16 business in the State of Washington, )  
17 Defendant. )

NO. C08-5745-FDB

DEFENDANT'S FIRST SET OF REQUESTS  
FOR PRODUCTION OF DOCUMENTS AND  
INTERROGATORIES TO PLAINTIFF ANNE  
ERICKSON

17 To: ANNE ERICKSON

18 And To: Tony Shapiro and Martin McLean, her attorneys of record

19 In accordance with Federal Rules of Civil Procedure 26, 33 and 34, you will please  
20 answer the following interrogatories and produce for inspection and copying by defendant, the  
21 following designated documents and things in the offices of the attorneys for Ogden Murphy  
22 Wallace, 1601 Fifth Avenue, Suite 2100, Seattle, Washington 98101-1686, within thirty (30)  
23 days of the date these interrogatories and requests for production are served upon you.

25 THESE INTERROGATORIES AND REQUESTS FOR PRODUCTION ARE TO BE  
26 TREATED AS CONTINUING. If information is not available within the time limits of the

Federal Rules of Civil Procedure, you must answer each interrogatory and request for production as fully as possible within the time limit and furnish additional information when it becomes available. If additional information is discovered between the time of making these answers and the time of trial, these interrogatories and requests for production are directed to that information. If such information is not furnished, the undersigned will move at the time of trial to exclude from evidence any information requested and not furnished.

## **DEFINITIONS**

"Document" or "Documents" includes, but is not limited to, writings of every kind, source, and authorship, both originals and non-identical copies thereof, as well as all drafts or summaries, in whole or in part, in Your possession, custody, or control. A writing includes but is not limited to letters, words, numbers, data compilations (including field data or field notes), calculations, pictures, drawings, photographs, symbols, sounds, or combinations thereof or their equivalent, including any and all handwritten, typewritten, printed, photocopied, or recorded matter, regardless of the media used, and specifically any and all correspondence, e-mails, Electronic Media, Electronically Stored Information, transcripts of testimonies, letters, memoranda, notes, reports, papers, files, books, records, contracts, agreements, telegrams, teletypes and other communications sent or received, diaries, calendars, telephone logs, drafts, work papers, agenda, bulletins, notices, announcements, instructions, charts, maps, plans, photographs, microfilm, data processed or image processed document, information stored or maintained electronically or by sound-recording or in a similar device, manuals, brochures, schedules, summaries, notes, minutes and other records and recordings of any conferences, meetings, visits, statements, interviews, or telephone conversations, bills, statements, and other

1 records of obligations and expenditures, cancelled checks, vouchers, receipts, and other records  
 2 of payments, financial data, analysis, statements, interviews, affidavits, printed matter (including  
 3 books, articles, speeches, newspaper clippings), press releases, file memoranda or other internal  
 4 documents, and photographs, and all drafts and/or non-identical copies thereof.  
 5

6       “Electronically Stored Information” includes but is not limited to writings, drawings,  
 7 graphs, charts, photographs, sound recordings, images and other data or data compilations stored  
 8 in any medium from which information can be obtained either directly or, if necessary, after  
 9 translation by the responding party into a reasonably usable form.

10      “Electronic Media” includes, but is not limited to, all computer-generated, processed or  
 11 stored information, e-mail, databases, data, word processing files, backup tapes, files, disks, hard  
 12 drives and any other electronically stored information, in its native format, including all  
 13 metadata.  
 14

15      “Communication” or “Communications” includes, but is not limited to, all verbal,  
 16 written, magnetic, digital, analog, electronic, and oral voice or data communications, transfers,  
 17 discussions , capture or exchanges of information or ideas, including those comprised of or  
 18 contained in conversations, conferences, meetings, seminars, presentations, correspondence,  
 19 documents, brochures, pamphlets, records, facsimiles, telecopies, voice mail, electronic mail,  
 20 Electronic Media, computer, cellular or digital media, photo-optic or analog media, magnetic  
 21 media, telex transmissions and/or communications conveyed by an electronic device.  
 22

23      “Concerning” or “Concerns” includes, but is not limited to, the following meanings:  
 24 relating to, referring to, pertaining to, regarding, constituting, discussing, mentioning, containing,  
 25 reflecting, evidencing, referencing, involving, arising out of, in connection with, describing,  
 26

1 displaying, showing, and identifying.

2 "Health Care Providers" shall refer to any doctors, nurses, psychiatrists, psychologists,  
3 counselors, osteopaths, chiropractors, mental health professionals, and any other person provided  
4 medical treatment or advice.  
5

6 "Identify" or "Identity" when used in reference to an individual person means to state his  
7 full name and present address, his present or last-known position and business affiliation, and his  
8 position and affiliation at the time in question. "Identify" or "identity," when used in reference to  
9 a document, means to state the date and author, type of document (e.g., letter, memorandum,  
10 telegram, chart, etc.) or some other means of identifying it, and its present location or custodian.  
11 If any such document was in your possession, but is no longer in your possession or subject to  
12 your control, explain the disposition of the document.  
13

14 "SOMS" means Sound Oral & Maxillofacial Surgery, P.S. and all derivations and  
15 abbreviations of Sound Oral & Maxillofacial Surgery, including but not limited to, "Sound Oral,"  
16 "Dr. Robert Todd Erickson, DDS," "Sound Oral Surgery," "SOMS," "Dr. Robert Erickson,"  
17 "SOMS Inc., P.S.," and "Sound Oral Maxillofacial."  
18

19 "You" or "Your" shall mean Plaintiffs Todd and Anne Erickson, and SOMS, and each  
20 predecessor, successor, Affiliate, director, owner, member, manager, officer, attorney, agent,  
21 employee or representative of SOMS, and any other Person acting on SOMS' behalf or under its  
22 control.  
23

24 NOTE: The information sought in these interrogatories and requests for production is  
25 intended to include any and all information and witnesses known to plaintiff, his agents or  
26 attorneys.  
27

1   REQUEST FOR PRODUCTION NO. 1: Please produce all documents showing or concerning  
2   any and all marketing plans, business plans, production quotas, and/or production goals, for  
3   SOMS from January 1, 1997 through the date that SOMS was sold.

4                    RESPONSE:

5

6

7

8   REQUEST FOR PRODUCTION NO. 2: Please produce all documents concerning any and all  
9   evaluations, reviews, or performance appraisals of any SOMS employees, from January 1, 1997  
10   through the date that SOMS was sold.

11                  RESPONSE:

12

13

14

15   REQUEST FOR PRODUCTION NO. 3: Please produce all documents concerning any  
16   collections made by SOMS, and production numbers, from January 1, 1997 through the date that  
17   SOMS was sold.

18                  RESPONSE:

19

20

21

22   REQUEST FOR PRODUCTION NO. 4: Please produce all documents showing the number of  
23   hours per day patients were seen at SOMS, including but not limited to any schedules, diaries,  
24   and/or calendars, from January 1, 1997 through the date that SOMS was sold.

25                  RESPONSE:

26

{JDA771474.DOC;1\12459.000005\}

DEFENDANT'S FIRST SET OF DISCOVERY TO ANNE  
ERICKSON - 5

OGDEN MURPHY WALLACE, P.L.L.C.  
1601 Fifth Avenue, Suite 2100  
Seattle, Washington 98101-1686  
Tel: 206.447.7000/Fax: 206.447.0215

1  
2  
3       REQUEST FOR PRODUCTION NO. 5: Please produce all employee resumes and records  
4 showing the dates of employment for each employee, from January 1, 1997 through the date that  
5 SOMS was sold.

6                  RESPONSE:  
7  
8  
9  
10

11       REQUEST FOR PRODUCTION NO. 6: Please produce any documents containing any lists of  
12 all employees of SOMS from January 1, 1997 through the date that SOMS was sold.  
13

14                  RESPONSE:  
15  
16  
17

18       INTERROGATORY NO. 1: Are you making a claim for loss of consortium? If so, please state  
19 the total amount you are claiming, the method by which this amount was computed or  
20 determined, and a full description of the basis for your claim.  
21

22                  ANSWER:  
23  
24  
25

26       REQUEST FOR PRODUCTION NO. 7: Please produce copies of all records concerning or  
supporting your answer to the preceding interrogatory.

27                  RESPONSE:  
28

1  
2  
3 REQUEST FOR PRODUCTION NO. 8: Produce all drills used in your spouse's oral surgical  
4 practice in your possession, custody, or control. This includes, but is not limited to, the eleven  
5 (11) pneumatic drills referenced in Dr. Erickson's deposition.

6           RESPONSE:  
7  
8  
9  
10

11 REQUEST FOR PRODUCTION NO. 9: Produce all documents concerning the Levin Group,  
12 Inc., or Barry Levin, including but not limited to all files, contracts, meeting plans, notes,  
13 recommendations, analyses, suggestions, critiques, and documents referencing Jennifer Flint,  
14 Jennifer Alexander, and Mark Cardwell.

15           RESPONSE:  
16  
17  
18  
19

20 REQUEST FOR PRODUCTION NO. 10: Produce all documents concerning the lawsuit  
21 captioned *Forshey v. SOMS, Inc. et. al.* (W.D. Wash. Case No. C06-5335-RJB).

22           RESPONSE:  
23  
24  
25  
26

27 REQUEST FOR PRODUCTION NO. 11: Produce all pleadings, deposition transcripts with  
28 exhibits, audio and/or videotapes of depositions, witness statements, expert reports,

1 correspondence, and settlement agreements concerning the case captioned *Forshey v. SOMS, Inc.*  
2 *et. al.* (W.D. Wash. Case No. C06-5335-RJB). This request specifically excludes any materials  
3 subject to the attorney-client privilege and/or work product doctrine.

4           RESPONSE:

5

6

7

8 **REQUEST FOR PRODUCTION NO. 12:** Produce all employment contracts regarding Jennifer  
9 Forshey.

10           RESPONSE:

11

12

13

14 **REQUEST FOR PRODUCTION NO. 13:** Produce the notebook referenced on page 142 of Dr.  
15 Erickson's deposition.

16           RESPONSE:

17

18

19

20 **REQUEST FOR PRODUCTION NO. 14:** Produce all documents relevant to your spouse's  
21 interactions with the Dental Quality Assurance Commission, including, but not limited to,  
22 complaints, charges, responses, stipulations, correspondence, or any other filings.

23           RESPONSE:

24

25

26

{JDA771474.DOC;1\12459.000005\}

DEFENDANT'S FIRST SET OF DISCOVERY TO ANNE  
ERICKSON - 8

OGDEN MURPHY WALLACE, P.L.L.C.  
1601 Fifth Avenue, Suite 2100  
Seattle, Washington 98101-1686  
Tel: 206.447.7000/Fax: 206.447.0215

1    REQUEST FOR PRODUCTION NO. 15: Produce all documents concerning any disability  
2    insurance in you or your spouse's name, including but not limited to the application, policy,  
3    claims, and correspondence.

4                          RESPONSE:

5

6

7

8    REQUEST FOR PRODUCTION NO. 16: Produce all documents concerning any and all golf  
9    academies, institutions, and/or schools in which your son is/was enrolled, including but not  
10   limited to all correspondence, brochures, registrations, bills, receipts, cancelled checks, and  
11   programs.

12                        RESPONSE:

13

14

15

16   INTERROGATORY NO. 2: Identify all accountants and/or any other financial professionals  
17   hired and/or used by you, your spouse, or SOMS from January 1, 1997 through the present.

18                        ANSWER:

19

20

21

22   REQUEST FOR PRODUCTION NO. 17: Produce all credit card statements, investments, bank  
23   statements, check registers, data from any accounting software, and cancelled checks, concerning  
24   SOMS.

25                        RESPONSE:

26

1  
2  
3       REQUEST FOR PRODUCTION NO. 18: Produce all credit card statements, investments, bank  
4 statements, check registers, data from any accounting software, and cancelled checks, concerning  
5 you and/or your spouse.

6                  RESPONSE:

7  
8  
9  
10       REQUEST FOR PRODUCTION NO. 19: Produce all documents concerning you and your  
11 spouse's liabilities, assets, and investments.

12                  RESPONSE:

13  
14  
15  
16       REQUEST FOR PRODUCTION NO. 20: Produce all billing records for SOMS.

17                  RESPONSE:

18  
19  
20  
21       REQUEST FOR PRODUCTION NO. 21: Produce all documents concerning insurance for  
22 SOMS, including but not limited to any policies, applications, endorsements, claims, and  
23 correspondence.

24                  RESPONSE:

1  
2 REQUEST FOR PRODUCTION NO. 22: Produce SOMS's document retention policy.  
3  
4

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
RESPONSE:

REQUEST FOR PRODUCTION NO. 23: Produce all OSHA/WISHA manuals, records, training materials, and brochures your/your spouse's practice at SOMS.

RESPONSE:

REQUEST FOR PRODUCTION NO. 24: Produce all documents concerning Harris Biomedical.

RESPONSE:

INTERROGATORY NO. 3: Please list each school or educational institution that you have attended, including the dates of attendance, date of graduation, degree obtained, and major or course of study.

ANSWER:

INTERROGATORY NO. 4: List the names and addresses of all health care providers, including but not limited to all doctors, nurses, psychiatrists, psychologists, counselors, osteopaths,

1 chiropractors, mental health professionals, and any other person who provided health care to you  
2 or your spouse since your hearing loss first began.

3 ANSWER:

4

5

6

7 REQUEST FOR PRODUCTION NO. 25: Produce all documents concerning the preceding  
8 interrogatory, including but not limited to all medical and billing records.

9

10 RESPONSE:

11

12

13 INTERROGATORY NO. 5: Please list the names and addresses of all mental health care  
14 providers, including but not limited to psychologists, psychiatrists, counselors, social workers,  
15 and therapists, that you and/or your spouse saw prior to your spouse's hearing loss beginning.

16

17 ANSWER:

18

19

20 REQUEST FOR PRODUCTION NO. 26: Produce all documents concerning the preceding  
21 interrogatory, including but not limited to all records and billing records.

22

23 RESPONSE:

24

25

26

1    REQUEST FOR PRODUCTION NO. 27: Produce all textbooks, journals, articles, and surveys  
2 concerning Oral & Maxillofacial surgery that you, your spouse, or SOMS received from 1985  
3 through the present, including but not limited to, the Journal of Oral & Maxillofacial Surgery,  
4 Journal of the American Dental Association, and Compendium.

5                        RESPONSE:

6

7

8

9    REQUEST FOR PRODUCTION NO. 28: Produce all documents concerning Don Dixon and/or  
10 Dixon Orthopedics.

11                        RESPONSE:

12

13

14    REQUEST FOR PRODUCTION NO. 29: Produce all documents concerning the pre-cordial  
15 stethoscope(s) used during your spouse's practice, including, but not limited to, instruction  
16 manuals, brochures, and invoices.

17                        RESPONSE:

18

19

20

21    REQUEST FOR PRODUCTION NO. 30: Produce all pre-cordial stethoscopes used in your  
22 spouse's practice from 1997 through the date you sold SOMS.

23                        RESPONSE:

24

25

26

1  
2 REQUEST FOR PRODUCTION NO. 31: Produce all documents concerning the noise output  
3 through the pre-cordial stethoscope during operation of the drills.  
4

5 RESPONSE:  
6  
7  
8  
9

10 REQUEST FOR PRODUCTION NO. 32: Produce all documents concerning any consultations  
11 with practice or business consultants, including but not limited to Dick Jackson.  
12

13 RESPONSE:  
14  
15  
16

17 REQUEST FOR PRODUCTION NO. 33: Produce all documents concerning any lawsuits  
18 against or brought by John Godulas.  
19

20 RESPONSE:  
21  
22

23 REQUEST FOR PRODUCTION NO. 34: Produce all documents concerning any lawsuits  
24 against or brought by Mark Paxton  
25

26 RESPONSE:  
27  
28

1    **REQUEST FOR PRODUCTION NO. 35:** Produce all documents concerning dosimetry studies  
2    prepared at the request of you, your spouse, or SOMS.

3                    RESPONSE:

4

5

6

7    **INTERROGATORY NO. 6:** Identify everywhere that you and/or your spouse have traveled by  
8    airplane from January 1, 2000 to the present, including the location to which you traveled, the  
9    name of the hotel or place where you stayed, the dates of travel, and the purpose of the travel.

10                  ANSWER:

11

12

13

14    **INTERROGATORY NO. 7:** Please list all of SOMS's fixed assets and their associated  
15    depreciation indicating the date acquired, cost of asset, and depreciation life.

16                  ANSWER:

17

18

19

20    **REQUEST FOR PRODUCTION 36:** Please produce all documents concerning or showing the  
21    base salary paid to you and/or your spouse by SOMS.

22                  RESPONSE:

23

24

25

26    **REQUEST FOR PRODUCTION 37:** Please produce all documents concerning all distributions

1 taken by you and/or your spouse from SOMS.

2 RESPONSE:

3

4

5

6 **REQUEST FOR PRODUCTION 38:** Please produce all job improvement plans, work plans, or  
7 performance plans for all SOMS's employees from January 1, 2003 through the date that SOMS  
8 was sold.

9 RESPONSE:

10

11

12

13 **REQUEST FOR PRODUCTION NO. 39:** Please produce the PRC Manual, all marketing  
14 recommendations, suggestions, and critiques, referenced in Exhibit D to the Declaration of  
15 Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D. Wash. Case No. C06-5335-RJB).

16 RESPONSE:

17

18

19

20 **REQUEST FOR PRODUCTION NO. 40:** Please produce the Phase 1 Implementation Plan for  
21 the Profitability Program, referenced in Exhibit D to the Declaration of Steven Teller, filed in  
22 *Forshey v. SOMS, Inc. et. al.* (W.D. Wash. Case No. C06-5335-RJB).

23 RESPONSE:

24

25

26

1    **REQUEST FOR PRODUCTION NO. 41:** Please produce all documents concerning or showing  
2    SOMS's employees' job descriptions.

3                    RESPONSE:

4  
5  
6

7    **REQUEST FOR PRODUCTION NO. 42:** Please produce the procedure manual referenced in  
8    Exhibit D to the Declaration of Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D. Wash.  
9    Case No. C06-5335-RJB).

10                  RESPONSE:

11  
12  
13

14    **REQUEST FOR PRODUCTION NO. 43:** Please produce the policy manual referenced in  
15   Exhibit D to the Declaration of Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D. Wash.  
16   Case No. C06-5335-RJB).

17                  RESPONSE:

18  
19  
20

21    **REQUEST FOR PRODUCTION NO. 44:** Please produce all procedural time studies referenced  
22   in Exhibit D to the Declaration of Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D.  
23   Wash. Case No. C06-5335-RJB).

24                  RESPONSE:

25  
26

1  
2 REQUEST FOR PRODUCTION NO. 45: Please produce the staff and gap analysis referenced  
3 in Exhibit D to the Declaration of Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D.  
4 Wash. Case No. C06-5335-RJB).

5 RESPONSE:  
6  
7  
8

9 REQUEST FOR PRODUCTION NO. 46: Please produce the all documents sent to SOMS's,  
10 your, or your spouse's liability insurance carrier.

11 RESPONSE:  
12  
13  
14

15 REQUEST FOR PRODUCTION NO. 47: Please produce all documents produced by SOMS,  
16 you, or your spouse to SOMS and/or Dr. Erickson's malpractice insurance carrier.

17 RESPONSE:  
18  
19  
20

21 REQUEST FOR PRODUCTION 48: Please produce records concerning the treatment of all  
22 patients seen by your spouse and/or SOMS from January 1, 2005 through the date that SOMS  
23 was sold. You may redact names and identifying information from the records.

24 RESPONSE:  
25  
26

1  
2 REQUEST FOR PRODUCTION NO. 49: Produce all documents concerning the "financial  
3 difficulty" mentioned by Dr. Nussbaum in her progress note dated December 17, 2009.  
4

5  
6  
7  
8  
RESPONSE:  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

REQUEST FOR PRODUCTION 50: Please produce the OMS Policy Manual referenced in  
Exhibit D to the Declaration of Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D. Wash.  
Case No. C06-5335-RJB).

RESPONSE:  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

DATED this 19th day of March, 2010.

OGDEN MURPHY WALLACE, PLLC

DECLARATION OF SERVICE

I hereby declare that I sent a copy of the document on which this declaration appears via fax/mail/messenger By

service to McLean

I declare under penalty of perjury of the laws of the State of Washington that the foregoing is true and correct.

Executed at Seattle, WA on 3/19/10

Signed by: Dee Miller

*Emily Gant*  
Lee Corkrum, WSBA No. 6585  
Emily Gant, WSBA No. 35679  
1601 Fifth Avenue, Suite 2100  
Seattle, Washington 98101  
Tel.: (206) 447-7000  
Fax: (206) 447-0215  
[egant@omwlaw.com](mailto:egant@omwlaw.com)  
Attorneys for Defendant

RESPONSES DATED this \_\_\_\_\_ day of April, 2010.

HAGENS BERMAN SOBOL SHAPIRO, LLP

By

Anthony D. Shapiro, WSBA #12824  
David P. Moody, WSBA #22853  
Martin D. McLean, WSBA #33269  
1918 – 8<sup>th</sup> Avenue, Suite 3300  
Seattle, WA 98101  
Ph.: (206) 623-7292  
Fax: (206) 624-0450  
Attorneys for Plaintiffs

VERIFICATION

STATE OF \_\_\_\_\_ }  
COUNTY OF \_\_\_\_\_ } ss.

I, \_\_\_\_\_, certify under penalty of perjury under the laws of the State of \_\_\_\_\_ that the foregoing answers and responses are true and correct.

DATED this \_\_\_\_ day of April, 2010.

SUBSCRIBED AND SWORD TO before me this      day of \_\_\_\_\_, 2010.

NOTARY PUBLIC in and for the State of

**My commission expires:** \_\_\_\_\_

# Exhibit 2

1 HONORABLE FRANKLIN D. BURGESS  
2  
3  
4  
5  
6  
7

8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

10 TODD and ANNE ERICKSON, individually and )  
the marital community comprised thereof, ) NO. C08-5745-FDB  
11 Plaintiffs, )  
12 v. ) DEFENDANT'S SECOND SET OF  
13 ) REQUESTS FOR PRODUCTION OF  
MICROAIRE SURGICAL INSTRUMENTS, ) DOCUMENTS TO PLAINTIFF TODD  
LLC, a Virginia Limited Liability Company doing ) ERICKSON  
14 business in the State of Washington, )  
15 Defendant. )

16 To: TODD ERICKSON

17 And To: Tony Shapiro and Martin McLean, his attorney of record

18 In accordance with Federal Rules of Civil Procedure 26, 33 and 34, you will please  
19 answer the following interrogatories and produce for inspection and copying by defendant, the  
20 following designated documents and things in the offices of the attorneys for Ogden Murphy  
21 Wallace, 1601 Fifth Avenue, Suite 2100, Seattle, Washington 98101-1686, within thirty (30)  
22 days of the date these interrogatories and requests for production are served upon you.

23  
24 THESE INTERROGATORIES AND REQUESTS FOR PRODUCTION ARE TO BE  
25  
26 TREATED AS CONTINUING. If information is not available within the time limits of the

1 Federal Rules of Civil Procedure, you must answer each interrogatory and request for production  
 2 as fully as possible within the time limit and furnish additional information when it becomes  
 3 avail-able. If additional information is discovered between the time of making these answers and  
 4 the time of trial, these interrogatories and requests for production are directed to that information.  
 5  
 6 If such information is not furnished, the undersigned will move at the time of trial to exclude  
 7 from evidence any information requested and not furnished.

#### 8 DEFINITIONS

9 "Document" or "Documents" includes, but is not limited to, writings of every kind,  
 10 source, and authorship, both originals and non-identical copies thereof, as well as all drafts or  
 11 summaries, in whole or in part, in Your possession, custody, or control. A writing includes but is  
 12 not limited to letters, words, numbers, data compilations (including field data or field notes),  
 13 calculations, pictures, drawings, photographs, symbols, sounds, or combinations thereof or their  
 14 equivalent, including any and all handwritten, typewritten, printed, photocopied, or recorded  
 15 matter, regardless of the media used, and specifically any and all correspondence, e-mails,  
 16 Electronic Media, Electronically Stored Information, transcripts of testimonies, letters,  
 17 memoranda, notes, reports, papers, files, books, records, contracts, agreements, telegrams,  
 18 teletypes and other communications sent or received, diaries, calendars, telephone logs, drafts,  
 19 work papers, agenda, bulletins, notices, announcements, instructions, charts, maps, plans,  
 20 photographs, microfilm, data processed or image processed document, information stored or  
 21 maintained electronically or by sound-recording or in a similar device, manuals, brochures,  
 22 schedules, summaries, notes, minutes and other records and recordings of any conferences,  
 23 meetings, visits, statements, interviews, or telephone conversations, bills, statements, and other  
 24  
 25  
 26

1 records of obligations and expenditures, cancelled checks, vouchers, receipts, and other records  
2 of payments, financial data, analysis, statements, interviews, affidavits, printed matter (including  
3 books, articles, speeches, newspaper clippings), press releases, file memoranda or other internal  
4 documents, and photographs, and all drafts and/or non-identical copies thereof.  
5

6 "Electronically Stored Information" includes but is not limited to writings, drawings,  
7 graphs, charts, photographs, sound recordings, images and other data or data compilations stored  
8 in any medium from which information can be obtained either directly or, if necessary, after  
9 translation by the responding party into a reasonably usable form.

10 "Electronic Media" includes, but is not limited to, all computer-generated, processed or  
11 stored information, e-mail, databases, data, word processing files, backup tapes, files, disks, hard  
12 drives and any other electronically stored information, in its native format, including all  
13 metadata.  
14

15 "Communication" or "Communications" includes, but is not limited to, all verbal,  
16 written, magnetic, digital, analog, electronic, and oral voice or data communications, transfers,  
17 discussions, capture or exchanges of information or ideas, including those comprised of or  
18 contained in conversations, conferences, meetings, seminars, presentations, correspondence,  
19 documents, brochures, pamphlets, records, facsimiles, telecopies, voice mail, electronic mail,  
20 Electronic Media, computer, cellular or digital media, photo-optic or analog media, magnetic  
21 media, telex transmissions and/or communications conveyed by an electronic device.  
22

23 "Concerning" or "Concerns" includes, but is not limited to, the following meanings:  
24 relating to, referring to, pertaining to, regarding, constituting, discussing, mentioning, containing,  
25 reflecting, evidencing, referencing, involving, arising out of, in connection with, describing,  
26

1 displaying, showing, and identifying.

2 "Health Care Providers" shall refer to any doctors, nurses, psychiatrists, psychologists,  
3 counselors, osteopaths, chiropractors, mental health professionals, and any other person provided  
4 medical treatment or advice.

5 "Identify" or "Identity" when used in reference to an individual person means to state his  
6 full name and present address, his present or last-known position and business affiliation, and his  
7 position and affiliation at the time in question. "Identify" or "identity," when used in reference to  
8 a document, means to state the date and author, type of document (e.g., letter, memorandum,  
9 telegram, chart, etc.) or some other means of identifying it, and its present location or custodian.  
10 If any such document was in your possession, but is no longer in your possession or subject to  
11 your control, explain the disposition of the document.

12 "SOMS" means Sound Oral & Maxillofacial Surgery, P.S. and all derivations and  
13 abbreviations of Sound Oral & Maxillofacial Surgery, including but not limited to, "Sound Oral,"  
14 "Dr. Robert Todd Erickson, DDS," "Sound Oral Surgery," "SOMS," "Dr. Robert Erickson,"  
15 "SOMS Inc., P.S." and "Sound Oral Maxillofacial."

16 "You" or "Your" shall mean Plaintiffs Todd and Anne Erickson, and SOMS, and each  
17 predecessor, successor, Affiliate, director, owner, member, manager, officer, attorney, agent,  
18 employee or representative of SOMS, and any other Person acting on SOMS' behalf or under its  
19 control.

20 NOTE: The information sought in these interrogatories and requests for production is  
21 intended to include any and all information and witnesses known to plaintiff, his agents or  
22 attorneys.

1     REQUEST FOR PRODUCTION NO. 1: Please produce all documents showing or concerning  
2     any and all marketing plans, business plans, production quotas, and/or production goals, for  
3     SOMS from January 1, 1997 through the date that SOMS was sold.

4                 RESPONSE:

5

6

7

8     REQUEST FOR PRODUCTION NO. 2: Please produce all documents concerning any and all  
9     evaluations, reviews, or performance appraisals of any SOMS employees, from January 1, 1997  
10    through the date that SOMS was sold.

11                RESPONSE:

12

13

14

15     REQUEST FOR PRODUCTION NO. 3: Please produce all documents concerning any  
16     collections made by SOMS, and production numbers, from January 1, 1997 through the date that  
17     SOMS was sold.

18                RESPONSE:

19

20

21

22     REQUEST FOR PRODUCTION NO. 4: Please produce all documents showing the number of  
23     hours per day patients were seen at SOMS, including but not limited to any schedules, diaries,  
24     and/or calendars, from January 1, 1997 through the date that SOMS was sold.

25                RESPONSE:

26

1  
2  
3 REQUEST FOR PRODUCTION NO. 5: Please produce all employee resumes and records  
4 showing the dates of employment for each employee, from January 1, 1997 through the date that  
5 SOMS was sold.

6           RESPONSE:  
7  
8  
9  
10

11 REQUEST FOR PRODUCTION NO. 6: Please produce any documents containing any lists of  
12 all employees of SOMS from January 1, 1997 through the date that SOMS was sold.  
13

14           RESPONSE:  
15  
16  
17

18 INTERROGATORY NO. 1: Are you making a claim for loss of consortium? If so, please state  
19 the total amount you are claiming, the method by which this amount was computed or  
20 determined, and a full description of the basis for your claim.  
21

22           ANSWER:  
23  
24  
25

26 REQUEST FOR PRODUCTION NO. 7: Please produce copies of all records concerning or  
supporting your answer to the preceding interrogatory.

RESPONSE:

1  
2  
3 REQUEST FOR PRODUCTION NO. 8: Produce all drills used in your oral surgical practice in  
4 your possession, custody, or control. This includes, but is not limited to, the eleven (11)  
5 pneumatic drills referenced in your deposition.

6           RESPONSE:  
7  
8  
9

10 REQUEST FOR PRODUCTION NO. 9: Produce all documents concerning the Levin Group,  
11 Inc., or Barry Levin, including but not limited to all files, contracts, meeting plans, notes,  
12 recommendations, analyses, suggestions, critiques, and documents referencing Jennifer Flint,  
13 Jennifer Alexander, and Mark Cardwell.

14           RESPONSE:  
15  
16  
17

18 REQUEST FOR PRODUCTION NO. 10: Produce all documents concerning the lawsuit  
19 captioned *Forshey v. SOMS, Inc. et. al.* (W.D. Wash. Case No. C06-5335-RJB).

20           RESPONSE:  
21  
22  
23

24 REQUEST FOR PRODUCTION NO. 11: Produce all pleadings, deposition transcripts with  
25 exhibits, audio and/or videotapes of depositions, witness statements, expert reports,  
26

1 correspondence, and settlement agreements concerning the case captioned *Forshey v. SOMS, Inc.*  
2 *et. al.* (W.D. Wash. Case No. C06-5335-RJB). This request specifically excludes any materials  
3 subject to the attorney-client privilege and/or work product doctrine.

4 RESPONSE:

5  
6  
7  
8 REQUEST FOR PRODUCTION NO. 12: Produce all employment contracts regarding Jennifer  
9 Forshey.

10 RESPONSE:

11  
12  
13  
14 REQUEST FOR PRODUCTION NO. 13: Produce the notebook referenced on page 142 of Dr.  
15 Erickson's deposition.

16 RESPONSE:

17  
18  
19  
20 REQUEST FOR PRODUCTION NO. 14: Produce all documents relevant to your interactions  
21 with the Dental Quality Assurance Commission, including, but not limited to, complaints,  
22 charges, responses, stipulations, correspondence, or any other filings.

23 RESPONSE:

1     REQUEST FOR PRODUCTION NO. 15: Produce all documents concerning any disability  
2     insurance in your or your spouse's name, including but not limited to the application, policy,  
3     claims, and correspondence.

4                 RESPONSE:

5  
6  
7

8     REQUEST FOR PRODUCTION NO. 16: Produce all documents concerning any and all golf  
9     academies, institutions, and/or schools in which your son is/was enrolled, including but not  
10    limited to all correspondence, brochures, registrations, bills, receipts, cancelled checks, and  
11    programs.

12                RESPONSE:

13  
14  
15

16     INTERROGATORY NO. 2: Identify all accountants and/or any other financial professionals  
17    hired and/or used by you, your spouse, or SOMS from January 1, 1997 through the present.

18                ANSWER:

19  
20  
21

22     REQUEST FOR PRODUCTION NO. 17: Produce all credit card statements, investments, bank  
23    statements, check registers, data from any accounting software, and cancelled checks, concerning  
24    SOMS.

25                RESPONSE:

26

1  
2  
3 REQUEST FOR PRODUCTION NO. 18: Produce all credit card statements, investments, bank  
4 statements, check registers, data from any accounting software, and cancelled checks, concerning  
5 you and/or your spouse from January 1, 1997 through the present.  
6

7 RESPONSE:  
8  
9

10 REQUEST FOR PRODUCTION NO. 19: Produce all documents concerning you and your  
11 spouse's liabilities, assets, and investments.  
12

13 RESPONSE:  
14  
15

16 REQUEST FOR PRODUCTION NO. 20: Produce all billing records for SOMS.  
17

18 RESPONSE:  
19  
20

21 REQUEST FOR PRODUCTION NO. 21: Produce all documents concerning insurance for  
22 SOMS, including but not limited to any policies, applications, endorsements, claims, and  
23 correspondence.  
24

25 RESPONSE:  
26

1  
2 REQUEST FOR PRODUCTION NO. 22: Produce SOMS's document retention policy.

3       RESPONSE:  
4  
5  
6

7 REQUEST FOR PRODUCTION NO. 23: Produce all OSHA/WISHA manuals, records, training  
8 materials, and brochures related to your/your spouse's practice at SOMS.

9       RESPONSE:  
10  
11  
12

13 REQUEST FOR PRODUCTION NO. 24: Produce all documents concerning Harris Biomedical.

14       RESPONSE:  
15  
16  
17

18 INTERROGATORY NO. 3: List every doctor or other health care provider from whom you  
19 received treatment between 1987 and 1997, including the dates and nature of the treatment  
20 received. This is meant to include, but is not limited to, not only all physicians, but also any  
21 counselors, psychologists, therapists, mental health providers, addiction specialists, and/or drug  
22 and alcohol rehabilitation workers or counselors.

23       ANSWER:  
24  
25  
26

1    REQUEST FOR PRODUCTION NO. 25: Produce all documents concerning the preceding  
2    interrogatory, including but not limited to all medical and billing records.

3                    RESPONSE:

4

5

6

7    REQUEST FOR PRODUCTION NO. 26: Produce all textbooks, journals, articles, surveys  
8    concerning Oral & Maxillofacial surgery that you, your spouse, or SOMS received from 1985  
9    through the present, including but not limited to, the Journal of Oral & Maxillofacial Surgery,  
10   Journal of the American Dental Association, and Compendium.

11                  RESPONSE:

12

13

14

15    REQUEST FOR PRODUCTION NO. 27: Produce all documents concerning Don Dixon and/or  
16   Dixon Orthopedics.

17                  RESPONSE:

18

19

20    REQUEST FOR PRODUCTION NO. 28: Produce all documents concerning the pre-cordial  
21   stethoscope(s) used during your practice, including, but not limited to, instruction manuals,  
22   brochures, and invoices.

23                  RESPONSE:

24

25

26

1    REQUEST FOR PRODUCTION NO. 29: Produce all documents concerning the noise output  
2    through the pre-cordial stethoscope during operation of the drills.

3                    RESPONSE:

4  
5  
6

7    REQUEST FOR PRODUCTION NO. 30: Produce all pre-cordial stethoscopes used in your  
8    practice from 1997 through the date you sold SOMS.

9                    RESPONSE:

10  
11  
12

13    REQUEST FOR PRODUCTION NO. 31: Produce all documents concerning any consultations  
14    with practice or business consultants, including but not limited to Dick Jackson.

15                    RESPONSE:

16  
17  
18

19    REQUEST FOR PRODUCTION NO. 32: Produce all documents concerning any lawsuits  
20    against or brought by John Godulas.

21                    RESPONSE:

22  
23  
24

25    REQUEST FOR PRODUCTION NO. 33: Produce all documents concerning any lawsuits  
26    against or brought by Mark Paxton.

1           RESPONSE:

2  
3  
4  
5       REQUEST FOR PRODUCTION NO. 34: Produce all documents concerning dosimetry studies  
6       prepared at the request of you, your spouse, or SOMS.

7           RESPONSE:

8  
9  
10       INTERROGATORY NO. 4: Identify everywhere that you and/or your spouse have traveled by  
11       airplane from January 1, 2000 to the present, including the location to which you traveled, the  
12       name of the hotel or place where you stayed, the dates of travel, and the purpose of the travel.

13  
14       ANSWER:

15  
16  
17       INTERROGATORY NO. 5: Please list all of SOMS's fixed assets and their associated  
18       depreciation indicating the date acquired, cost of asset, and depreciation life.

19  
20       ANSWER:

21  
22  
23  
24       INTERROGATORY NO. 6: Please list the name, address, and phone number all dentists that  
25       referred more than 5 patients to SOMS and/or you from January 1, 1997 through the date that  
26       SOMS was sold, including in your response the number of patients each dentist referred to you.

1 ANSWER:

2  
3  
4  
5 INTERROGATORY NO. 7: For each nurse, technician, or other professional, employed or hired  
6 by SOMS or you, who was certified to monitor patients who were under general anesthesia,  
7 please list their name, position, dates of employment, last known address, and telephone number.

8 ANSWER:

9  
10  
11  
12 INTERROGATORY NO. 8: Is it your position that no one other than Dr. Erickson was able to  
13 adequately monitor patients under anesthesia within the standard of care? If so, please explain.

14 ANSWER:

15  
16  
17  
18 REQUEST FOR PRODUCTION 35: The Order on Completion of Conditions in the Matter of  
19 Robert Erickson (no. M2006-5849), paragraph 2.4 states that "on May 10, 2009, the commission  
20 received respondent's request to eliminate the requirement that he pay the fine required under  
21 paragraph 4.1 of the 2007 Agreed Order. Respondent based his request on financial hardship and  
22 submitted supporting documents." Produce all documents and evidence submitted in support of  
23 your request.

24 RESPONSE:

1  
2  
3 REQUEST FOR PRODUCTION 36: Please produce all documents concerning or showing the  
4 base salary paid to you and/or your spouse by SOMS.  
5

6 RESPONSE:  
7  
8

9 REQUEST FOR PRODUCTION 37: Please produce all documents concerning all distributions  
10 taken by you and/or your spouse from SOMS.  
11

12 RESPONSE:  
13  
14

15 REQUEST FOR PRODUCTION 38: Please produce all job improvement plans, work plans, or  
16 performance plans for all SOMS's employees from January 1, 2003 through the date that SOMS  
17 was sold.  
18

19 RESPONSE:  
20  
21

22 INTERROGATORY NO. 9: Please list all bonuses paid by SOMS between January 1, 2003 and  
23 the date that SOMS was sold, including but not limited to the name of the person receiving the  
24 bonus, the position of the recipient, the date the bonus was disbursed, and the amount of the  
bonus.  
25

26 ANSWER:

1  
2  
3  
4  
REQUEST FOR PRODUCTION NO. 39: Please produce the PRC Manual, all marketing  
5 recommendations, suggestions, and critiques, referenced in Exhibit D to the Declaration of  
6 Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D. Wash. Case No. C06-5335-RJB).  
7

8           RESPONSE:  
9  
10  
11  
12  
13  
14

REQUEST FOR PRODUCTION NO. 40: Please produce the Phase 1 Implementation Plan for  
the Profitability Program, referenced in Exhibit D to the Declaration of Steven Teller, filed in  
*Forshey v. SOMS, Inc. et. al.* (W.D. Wash. Case No. C06-5335-RJB).

15           RESPONSE:  
16  
17  
18  
19  
20

REQUEST FOR PRODUCTION NO. 41: Please produce all documents concerning or showing  
SOMS's employees' job descriptions.

21           RESPONSE:  
22  
23  
24  
25  
26

REQUEST FOR PRODUCTION NO. 42: Please produce the procedure manual referenced in  
Exhibit D to the Declaration of Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D. Wash.

1 Case No. C06-5335-RJB).

2 RESPONSE:

3

4

5

6 REQUEST FOR PRODUCTION NO. 43: Please produce the policy manual referenced in  
7 Exhibit D to the Declaration of Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D. Wash.  
8 Case No. C06-5335-RJB).

9 RESPONSE:

10

11

12

13 REQUEST FOR PRODUCTION NO. 44: Please produce all procedural time studies referenced  
14 in Exhibit D to the Declaration of Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D.  
15 Wash. Case No. C06-5335-RJB).

16 RESPONSE:

17

18

19 REQUEST FOR PRODUCTION NO. 45: Please produce the staff and gap analysis referenced  
20 in Exhibit D to the Declaration of Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D.  
21 Wash. Case No. C06-5335-RJB).

22 RESPONSE:

23

24

25 REQUEST FOR PRODUCTION NO. 46: Please produce all documents sent to SOMS's, your,  
or your spouse's liability insurance carrier.

26

{JDA775160.DOC;1\12459.000005\}

DEFENDANT'S SECOND SET OF DISCOVERY TO TODD  
ERICKSON - 18

OGDEN MURPHY WALLACE, P.L.L.C.  
1601 Fifth Avenue, Suite 2100  
Seattle, Washington 98101-1686  
Tel: 206.447.7000/Fax: 206.447.0215

1           RESPONSE:

2  
3  
4  
5       REQUEST FOR PRODUCTION NO. 47: Please produce all documents produced by SOMS,  
6       you, or your spouse to SOMS's and/or Dr. Erickson's malpractice insurance carrier.

7           RESPONSE:

8  
9  
10       INTERROGATORY NO. 10: Estimate, on an average day, the cumulative time you were  
11       exposed to noise by MicroAire drills.

12       ANSWER:

13  
14  
15       REQUEST FOR PRODUCTION NO. 48: Produce all documents relevant to your answer to the  
16       preceding interrogatory.

17       RESPONSE:

18  
19  
20       INTERROGATORY NO. 11: Identify all steps taken by you and/or SOMS to protect the hearing  
21       of your employees.

22       ANSWER:

23  
24  
25  
26       INTERROGATORY NO. 12: Please provide the name, last known address, and last known

1 phone number of all persons employed by SOMS from January 1, 2004 through the close of the  
2 business.

3 ANSWER:

4

5

6

7 INTERROGATORY NO. 13: Identify the person/people who handled the billing for SOMS  
8 from January 1, 1997 through the close of the business.

9 ANSWER:

10

11

12

13

14 REQUEST FOR PRODUCTION 49: Please produce records concerning the treatment of all  
15 patients seen by you and/or SOMS from January 1, 2005 through the date that SOMS was sold.  
16 You may redact names and identifying information from the records.

17 RESPONSE:

18

19

20

21 REQUEST FOR PRODUCTION NO. 50: Produce all documents concerning any consultations,  
22 appointments, or meetings you have had with any occupational therapist and/or career consultant.

23 RESPONSE:

24

25

26

1    REQUEST FOR PRODUCTION NO. 51: Produce all documents concerning your fellowship at  
2    the American Dental Association.

3                    RESPONSE:

4

5

6

7    REQUEST FOR PRODUCTION NO. 52: Produce all documents concerning the "financial  
8    difficulty" mentioned by Dr. Nussbaum in her progress note dated December 17, 2009.

9                    RESPONSE:

10

11

12

13    REQUEST FOR PRODUCTION 53: Please produce the OMS Policy Manual referenced in  
14    Exhibit D to the Declaration of Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D. Wash.  
15    Case No. C06-5335-RJB).

16                    RESPONSE:

17

18

19

20

21

22

23

24

25

26

{JDA775160.DOC;1\12459.000005\}

DEFENDANT'S SECOND SET OF DISCOVERY TO TODD  
ERICKSON - 21

OGDEN MURPHY WALLACE, P.L.L.C.  
1601 Fifth Avenue, Suite 2100  
Seattle, Washington 98101-1686  
Tel: 206.447.7000/Fax: 206.447.0215

1 DATED this 19th day of March, 2010.  
2  
3  
4

5 OGDEN MURPHY WALLACE, PLLC  
6  
7

8 By Emily Gant  
9 Lee Corkrum, WSBA No. 6585  
Lee Corkrum, WSBA No. 6585  
Emily Gant, WSBA No. 35679  
1601 Fifth Avenue, Suite 2100  
Seattle, Washington 98101  
Tel.: (206) 447-7000  
Fax: (206) 447-0215  
[egant@omwlaw.com](mailto:egant@omwlaw.com)  
Attorneys for Defendant

10  
11  
12  
13 DECLARATION OF SERVICE  
14

I hereby declare that I sent a copy of the document on  
which this declaration appears via fax/mail/messenger  
service to McLean

I declare under penalty of perjury of the laws of the  
State of Washington that the foregoing is true and correct.  
Executed at Seattle, WA on 3/19/10

Signed by: Sue Miller

RESPONSES DATED this \_\_\_\_ day of April, 2010.

HAGENS BERMAN SOBOL SHAPIRO, LLP

By

Anthony D. Shapiro, WSBA #12824  
David P. Moody, WSBA #22853  
Martin D. McLean, WSBA #33269  
1918 - 8<sup>th</sup> Avenue, Suite 3300  
Seattle, WA 98101  
Ph.: (206) 623-7292  
Fax: (206) 624-0450  
Attorneys for Plaintiffs

## VERIFICATION

STATE OF \_\_\_\_\_ }  
COUNTY OF \_\_\_\_\_ } ss.

I, \_\_\_\_\_, certify under penalty of perjury under the laws of the

State of \_\_\_\_\_ that the foregoing answers and responses are true and correct.

DATED this            day of April, 2010.

SUBSCRIBED AND SWORD TO before me this      day of      , 2010.

NOTARY PUBLIC in and for the State of \_\_\_\_\_, residing at \_\_\_\_\_

My commission expires: \_\_\_\_\_

# Exhibit 3

1 HONORABLE FRANKLIN D. BURGESS  
2  
3  
4  
5  
6

7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT TACOMA

10 TODD and ANNE ERICKSON, individually  
11 and the marital community composed thereof,

12 Plaintiffs,

13 v.

14 MICROAIRE SURGICAL INSTRUMENTS  
15 LLC, a Virginia limited liability company doing  
16 business in the State of Washington,

17 Defendant.

No. C08-5745 FDB

DEFENDANT'S FIRST SET OF  
REQUESTS FOR PRODUCTION OF  
DOCUMENTS AND  
INTERROGATORIES TO PLAINTIFF  
ANNE ERICKSON AND ANSWERS  
AND RESPONSES THERETO

16 **GENERAL OBJECTIONS**

17 1. Plaintiff objects to any discovery request(s) seeking information protected by the  
18 attorney-client privilege, the work product doctrine, or any other applicable privilege.

19 2. Plaintiff objects to any discovery request(s) seeking to impose burdens different or  
20 in excess of those mandated in the Civil Rules.

21 3. Plaintiff objects to any interrogatory or request for production seeking information  
22 or documents relating to a time period prior to 2004 unless otherwise indicated.

23 4. Plaintiff objects to the Interrogatories and Requests for Production of Documents  
24 on the grounds that they seek information that is not in plaintiff's possession, custody or control.  
25 In responding to these discovery requests, plaintiff has made a reasonable effort to attain the

26 DEF.'S 1ST SET OF RFP OF DOCS. & INTERROG.  
TO PLF. ANNE ERICKSON & ANSWERS THERETO- 1  
Case No. C08-5745 FDB



1 information sought, but has not attempted to procure information from sources outside her  
 2 possession, custody or control. Plaintiff's responses are based upon a reasonable search of the  
 3 information and documents available to her.

4       5. Plaintiff objects to Defendant's discovery on the grounds that it seeks information  
 5 that was prepared in anticipation of litigation, constitutes attorney work product, discloses mental  
 6 impressions, conclusions, opinions or legal theories of any attorney for or other representative of  
 7 plaintiffs, contains privileged attorney-client communications, or is otherwise protected from  
 8 disclosure under applicable privileges, laws or rules. Plaintiff claims such privileges and  
 9 protections implicated by Defendant's discovery and excluded privileged and protected material  
 10 from its responses. Any disclosure of such privileged or protected information is inadvertent and  
 11 is not intended to waive any privileges or protections.

12       6. Plaintiff objects to Defendant's discovery on the grounds that it is unduly  
 13 burdensome to the extent that the information sought is available in the public domain, has  
 14 already been disclosed by plaintiff, or is otherwise available to defendant or her counsel.

15       7. Plaintiff objects to Defendant's discovery on the grounds that it is vague and  
 16 ambiguous, or contain terms that are undefined or otherwise unclear.

17       8. Plaintiff objects to Defendant's discovery on the grounds that it assumes disputed  
 18 facts or legal conclusions. Plaintiff hereby denies any disputed facts or legal conclusions  
 19 assumed by each discovery request. Any response or objection, including any production of  
 20 documents by plaintiff with respect to any such Interrogatory is without prejudice to this  
 21 objection and plaintiff's right to dispute facts and legal conclusions assumed by the  
 22 Interrogatories.

23       9. In making these responses, plaintiff reserves and does not waive her right to  
 24 present or rely upon subsequently developed legal theories, additional facts, documents,  
 25 information or evidence later discovered or obtained, or inadvertently omitted at this time. In  
 26

DEF.'S 1ST SET OF RFP OF DOCS. & INTERROG.  
 TO PLF. ANNE ERICKSON & ANSWERS THERETO- 2  
 Case No. C08-5745 FDB



1 addition, plaintiff reserves and does not waive her right to amend or supplement its responses in  
 2 the future.

3       10. The written responses to Defendant's discovery are made solely for the purposes  
 4 of this action. In providing these responses, plaintiff does not concede the relevancy or  
 5 materiality of any information provided. The responses are provided subject to and without  
 6 waiver of all questions or objections as to competency, materiality or admissibility as evidence.

7       11. Plaintiff expressly reserves all objections and privileges that may be applicable in  
 8 proceedings unrelated to this action. Each response contained herein is subject to all objections  
 9 as to confidentiality, relevance, materiality, propriety, admissibility, and all other objections and  
 10 grounds that would require the exclusion of any statement contained herein if these  
 11 Interrogatories were asked of, or any statements contained herein were made by, a witness  
 12 present and testifying in court, all of which objections and grounds are reserved and may be  
 13 interposed at the time of trial.

14       12. Except for explicit facts admitted herein, no incidental or implied admissions are  
 15 intended. The fact that plaintiff has responded to any discovery request is not to be taken as an  
 16 admission that she accepts or admits the existence of any fact set forth or assumed by such request  
 17 or that such response constitutes admissible evidence. Responses contained herein are not intended  
 18 and shall not be construed to be a waiver of all or part of any discovery request propounded to  
 19 plaintiff.

20       13. Plaintiff incorporates by reference the above objections into each of the responses  
 21 set forth below.

22           The information supplied herein is not based solely upon the knowledge of the executing  
 23 party, but includes the knowledge of the parties, their agents, representatives and attorneys, unless  
 24 privileged. The word usage and sentence structure may be that of the attorney(s) assisting in the  
 25 preparation of these answers and objections and, thus, does not necessarily purport to be the precise  
 26 language of the executing party.

DEF.'S 1ST SET OF RFP OF DOCS. & INTERROG.  
 TO PLF. ANNE ERICKSON & ANSWERS THERETO- 3  
 Case No. C08-5745 FDB



1 All documents responsive to defendant's requests for production will be produced at a  
2 mutually convenient time at our offices.

3

4 REQUEST FOR PRODUCTION NO. 1: Please produce all documents showing or concerning  
5 any and all marketing plans, business plans, production quotas, and/or production goals, for  
6 SOMS from January 1, 1997 through the date that SOMS was sold.

7       RESPONSE:

8       Any responsive documents will be made available for inspection and copying at  
9 plaintiff's counsel's office at a mutually convenient time.

10      REQUEST FOR PRODUCTION NO. 2: Please produce all documents concerning any and all  
11 evaluations, reviews, or performance appraisals of any SOMS employees, from January 1, 1997  
12 through the date that SOMS was sold.

13       RESPONSE:

14       Objection. Overbroad and unduly burdensome. This request is beyond the scope of  
15 proper discovery because the information it seeks is neither relevant nor reasonable calculated to  
16 lead to the discovery of admissible evidence. Further, former employees have a protected  
17 privacy right which this request seeks to violate.

18      REQUEST FOR PRODUCTION NO. 3: Please produce all documents concerning any  
19 collections made by SOMS, and production numbers, from January 1, 1997 through the date that  
20 SOMS was sold.

21       RESPONSE:

22       Any responsive documents will be made available for inspection and copying of  
23 plaintiff's counsel's office at a mutually-convenient time.

24  
25  
26  
DEF.'S 1ST SET OF RFP OF DOCS. & INTERROG.  
TO PLF. ANNE ERICKSON & ANSWERS THERETO- 4  
Case No. C08-5745 FDB



1           REQUEST FOR PRODUCTION NO. 4: Please produce all documents showing the number of  
2           hours per day patients were seen at SOMS, including but not limited to any schedules, diaries,  
3           and/or calendars, from January 1, 1997 through the date that SOMS was sold.

4           RESPONSE:

5           All responsive documents will be made available for inspection and copying of plaintiff's  
6           counsel's office at a mutually-convenient time.

7           REQUEST FOR PRODUCTION NO. 5: Please produce all employee resumes and records  
8           showing the dates of employment for each employee, from January 1, 1997 through the date that  
9           SOMS was sold.

10           RESPONSE:

11           Objection. Overbroad and unduly burdensome. This request is beyond the scope of  
12           proper discovery because the information it seeks is neither relevant nor reasonable calculated to  
13           lead to the discovery of admissible evidence. Further, former employees have a protected  
14           privacy right which this request seeks to violate.

15           REQUEST FOR PRODUCTION NO. 6: Please produce any documents containing any lists of  
16           all employees of SOMS from January 1, 1997 through the date that SOMS was sold.

17           RESPONSE:

18           Any responsive documents will be made available for inspection and copying at  
19           plaintiff's counsel's office at a mutually convenient time.

20           INTERROGATORY NO. 1: Are you making a claim for loss of consortium? If so, please state  
21           the total amount you are claiming, the method by which this amount was computed or  
22           determined, and a full description of the basis for your claim.

23           ANSWER:

24           Yes. The amount of such damages will be determined by an impartial jury.

25           DEF.'S 1ST SET OF RFP OF DOCS. & INTERROG.  
26           TO PLF. ANNE ERICKSON & ANSWERS THERETO- 5  
Case No. C08-5745 FDB



1       REQUEST FOR PRODUCTION NO. 7: Please produce copies of all records concerning or  
2 supporting your answer to the preceding interrogatory.

3           RESPONSE:

4           Objection. Vague and unclear. Notwithstanding the foregoing please see medical  
5 records of Dr. Erickson already provided. Furthermore, Anne Erickson will sign a stipulation for  
6 production of her medical records from 2004 to the present which should contain responsive  
7 information.

8       REQUEST FOR PRODUCTION NO. 8: Produce all drills used in your spouse's oral surgical  
9 practice in your possession, custody, or control. This includes, but is not limited to, the eleven  
10 (11) pneumatic drills referenced in Dr. Erickson's deposition.

12           RESPONSE:

13           Plaintiffs' drills will be made available for inspection and testing once an appropriate  
14 protocol has been established either through agreement by the parties or by order of the Court.

15       REQUEST FOR PRODUCTION NO. 9: Produce all documents concerning the Levin Group,  
16 Inc., or Barry Levin, including but not limited to all files, contracts, meeting plans, notes,  
17 recommendations, analyses, suggestions, critiques, and documents referencing Jennifer Flint,  
18 Jennifer Alexander, and Mark Cardwell.

19           RESPONSE:

20           Any responsive documents will be made available for inspection and copying at  
21 plaintiff's counsel's office at a mutually convenient time.

22       REQUEST FOR PRODUCTION NO. 10: Produce all documents concerning the lawsuit  
23 captioned *Forshey v. SOMS, Inc. et. al.* (W.D. Wash. Case No. C06-5335-RJB).

25           RESPONSE:

26  
  
DEF.'S 1ST SET OF RFP OF DOCS. & INTERROG.  
TO PLF. ANNE ERICKSON & ANSWERS THERETO- 6  
Case No. C08-5745 FDB



1 Objection. Overbroad and unduly burdensome. This request is beyond the scope of  
2 proper discovery because the information it seeks is neither relevant nor reasonably calculated to  
3 lead to the discovery of admissible evidence. Further, much of the requested documentation is in  
4 the public record and equally available to defendant or has already been subpoenaed by  
5 defendant from Dr. Forshey.

6 REQUEST FOR PRODUCTION NO. 11: Produce all pleadings, deposition transcripts with  
7 exhibits, audio and/or videotapes of depositions, witness statements, expert reports,  
8 correspondence, and settlement agreements concerning the case captioned *Forshey v. SOMS, Inc.*  
9 *et. al.* (W.D. Wash. Case No. C06-5335-RJB). This request specifically excludes any materials  
10 subject to the attorney-client privilege and/or work product doctrine.

11       RESPONSE:

12       Objection. Overbroad and unduly burdensome. This request is beyond the scope of  
13 proper discovery because the information it seeks is neither relevant nor reasonably calculated to  
14 lead to the discovery of admissible evidence. Further, much of the requested documentation is in  
15 the public record and equally available to defendant or has already been subpoenaed by  
16 defendant from Dr. Forshey.

17 REQUEST FOR PRODUCTION NO. 12: Produce all employment contracts regarding Jennifer  
18 Forshey.

19       RESPONSE:

20       Objection. Overbroad and unduly burdensome. This request is beyond the scope of  
21 proper discovery because the information it seeks is neither relevant nor reasonably calculated to  
22 lead to the discovery of admissible evidence. Further, much of the requested documentation is in  
23 the public record and equally available to defendant or has already been subpoenaed by  
24 defendant from Dr. Forshey.

25  
26  
DEF.'S 1ST SET OF RFP OF DOCS. & INTERROG.  
TO PLF. ANNE ERICKSON & ANSWERS THERETO- 7  
Case No. C08-5745 FDB



1       REQUEST FOR PRODUCTION NO. 13: Produce the notebook referenced on page 142 of Dr.  
2       Erickson's deposition.

3           RESPONSE:

4       Any responsive documents will be made available for inspection and copying at  
5       plaintiff's counsel's office at a mutually convenient time.

6       REQUEST FOR PRODUCTION NO. 14: Produce all documents relevant to your spouse's  
7       interactions with the Dental Quality Assurance Commission, including, but not limited to,  
8       complaints, charges, responses, stipulations, correspondence, or any other filings.

9           RESPONSE:

10       Objection. Overbroad and unduly burdensome. Not relevant and not reasonably  
11       calculated to lead to the discovery of admissible evidence. Further, defendant has already  
12       received the complete file from the Dental Quality Assurance Commission. Notwithstanding the  
13       foregoing objections, any responsive document will be produced.

14       REQUEST FOR PRODUCTION NO. 15: Produce all documents concerning any disability  
15       insurance in you or your spouse's name, including but not limited to the application, policy,  
16       claims, and correspondence.

17           RESPONSE:

18       Objection. Overbroad and unduly burdensome. This request is beyond the scope of  
19       proper discovery because the information it seeks is neither relevant nor reasonably calculated to  
20       lead to the discovery of admissible evidence.

21       REQUEST FOR PRODUCTION NO. 16: Produce all documents concerning any and all golf  
22       academies, institutions, and/or schools in which your son is/was enrolled, including but not  
23       limited to all correspondence, brochures, registrations, bills, receipts, cancelled checks, and  
24       programs.

25       DEF.'S 1ST SET OF RFP OF DOCS. & INTERROG.  
26       TO PLF. ANNE ERICKSON & ANSWERS THERETO- 8  
Case No. C08-5745 FDB



1 RESPONSE:

2 Objection. Overbroad and unduly burdensome. This request is beyond the scope of  
3 proper discovery because the information it seeks is neither relevant nor reasonably calculated to  
4 lead to the discovery of admissible evidence.

5 INTERROGATORY NO. 2: Identify all accountants and/or any other financial professionals  
6 hired and/or used by you, your spouse, or SOMS from January 1, 1997 through the present.

7 ANSWER:

8 The accountant for Sound Oral Maxillofacial Surgery was:  
9 Jason Kors, CPA, MS  
10 Dwyer Pemberton & Coulson. P.C.  
10 1940 East D Street, Suite 200  
11 Tacoma, WA 98421

12 REQUEST FOR PRODUCTION NO. 17: Produce all credit card statements, investments, bank  
13 statements, check registers, data from any accounting software, and cancelled checks, concerning  
14 SOMS.

15 RESPONSE:

16 Any responsive documents will be made available for inspection and copying at  
17 plaintiff's counsel's office at a mutually convenient time.

18 REQUEST FOR PRODUCTION NO. 18: Produce all credit card statements, investments, bank  
19 statements, check registers, data from any accounting software, and cancelled checks, concerning  
20 you and/or your spouse.

21 RESPONSE:

22 Objection. Overbroad and unduly burdensome. This request is beyond the scope of  
23 proper discovery because the information it seeks is neither relevant nor reasonably calculated to  
24 lead to the discovery of admissible evidence.

25  
26  
DEF.'S 1ST SET OF RFP OF DOCS. & INTERROG.  
TO PLF. ANNE ERICKSON & ANSWERS THERETO- 9  
Case No. C08-5745 FDB



1           In addition this request is improper because it is interposed for an improper purpose such  
2 as to harass plaintiffs.

3 REQUEST FOR PRODUCTION NO. 19: Produce all documents concerning you and your  
4 spouse's liabilities, assets, and investments.

5           RESPONSE:

6           Objection. Overbroad and unduly burdensome. This request is beyond the scope of  
7 proper discovery because the information it seeks is neither relevant nor reasonably calculated to  
8 lead to the discovery of admissible evidence.

9           In addition this request is improper because it is interposed for an improper purpose such  
10 as to harass plaintiffs.

11 REQUEST FOR PRODUCTION NO. 20: Produce all billing records for SOMS.

12           RESPONSE:

13           Any responsive documents will be made available for inspection and copying at  
14 plaintiff's counsel's office at a mutually convenient time.

15 REQUEST FOR PRODUCTION NO. 21: Produce all documents concerning insurance for  
16 SOMS, including but not limited to any policies, applications, endorsements, claims, and  
17 correspondence.

18           RESPONSE:

19           Objection. Overbroad and unduly burdensome. This request is beyond the scope of  
20 proper discovery because the information it seeks is neither relevant nor reasonably calculated to  
21 lead to the discovery of admissible evidence.

22 REQUEST FOR PRODUCTION NO. 22: Produce SOMS's document retention policy.

23           RESPONSE:

24           DEF.'S 1ST SET OF RFP OF DOCS. & INTERROG.  
25 TO PLF. ANNE ERICKSON & ANSWERS THERETO- 10  
26 Case No. C08-5745 FDB



1 There was no written document retention policy.

2 REQUEST FOR PRODUCTION NO. 23: Produce all OSHA/WISHA manuals, records,  
3 training materials, and brochures your/your spouse's practice at SOMS.

4 RESPONSE:

5 Any responsive documents will be made available for inspection and copying at  
6 plaintiff's counsel's office at a mutually convenient time.

7 REQUEST FOR PRODUCTION NO. 24: Produce all documents concerning Harris  
8 Biomedical.

9 RESPONSE:

10 Any responsive documents will be made available for inspection and copying at  
11 plaintiff's counsel's office at a mutually convenient time. Furthermore, defendant has received  
12 documents from Harris Biomedical in response to a subpoena.

13 INTERROGATORY NO. 3: Please list each school or educational institution that you have  
14 attended, including the dates of attendance, date of graduation, degree obtained, and major or  
15 course of study.

16 ANSWER:

17 Washington State University BSN 1980 – 1984

18 Gonzaga University MBA Graduated in 1993

19 INTERROGATORY NO. 4: List the names and addresses of all health care providers, including  
20 but not limited to all doctors, nurses, psychiatrists, psychologists, counselors, osteopaths,  
21 chiropractors, mental health professionals, and any other person who provided health care to you  
22 or your spouse since your hearing loss first began.

23  
24  
25  
26  
  
DEF.'S 1ST SET OF RFP OF DOCS. & INTERROG.  
TO PLF. ANNE ERICKSON & ANSWERS THERETO- 11  
Case No. C08-5745 FDB



1918 EIGHTH AVENUE, SUITE 3300 • SEATTLE, WA 98101  
(206) 623-7292 • FAX (206) 623-0594

1 ANSWER: Objection. This interrogatory is vague and unclear since Anne Erickson  
2 has not experienced any hearing loss. However, Ms. Erickson has treated with the following  
3 healthcare professional since early 2006:

4 Dr. Timothy Holmes, DC, RT  
5 11511 Canterwood Blvd., #210  
Gig Harbor, WA 98332

6 Barbara Levy, MD  
7 34503 9th Avenue S, #330  
Federal Way, WA 98003

8  
9 Mark Taylor, MD  
Pacific NW Eye Associates  
10 2202 S. Cedar Street, #100  
Tacoma, WA 98405

11  
12 Michael Flatley, DDS  
4423 Pt. Fosdick Drive, #304  
13 Gig Harbor, WA 98335

14 Sally Chumney, FNP  
Minute Clinic  
15 6895 E. Sunrise  
Tucson, AZ 85750

16  
17 Joan Halley, DO  
Peninsula Family Medicine  
18 4700 Pt. Fosdick Drive, #220  
Gig Harbor, WA 98335

19  
20 Marcello Cherchi, MD, PhD  
645 N. Michigan, #410  
21 Chicago, Illinois 60611

22 David Pratt, MD  
2202 S. Cedar, #300  
23 Tacoma, WA 98405

24 John Carrougher, MD  
25 4700 Pt. Fosdick, #308  
Gig Harbor, WA 98335

26  
DEF.'S 1ST SET OF RFP OF DOCS. & INTERROG.  
TO PLF. ANNE ERICKSON & ANSWERS THERETO- 12  
Case No. C08-5745 FDB



1       REQUEST FOR PRODUCTION NO. 25: Produce all documents concerning the preceding  
2 interrogatory, including but not limited to all medical and billing records.

3           RESPONSE: The requested documents are not in plaintiff's possession, custody or  
4 control.

5       INTERROGATORY NO. 5: Please list the names and addresses of all mental health care  
6 providers, including but not limited to psychologists, psychiatrists, counselors, social workers,  
7 and therapists, that you and/or your spouse saw prior to your spouse's hearing loss beginning.  
8

9           ANSWER: Objection. Overbroad, burdensome and oppressive. From 2000 until Dr.  
10 Erickson was diagnosed with hearing loss and other conditions, Ms. Erickson saw none of the  
11 above listed healthcare providers. With respect to Dr. Erickson the requested information has  
12 already been provided.

13       REQUEST FOR PRODUCTION NO. 26: Produce all documents concerning the preceding  
14 interrogatory, including but not limited to all records and billing records.

15           RESPONSE:

16           N/A

17       REQUEST FOR PRODUCTION NO. 27: Produce all textbooks, journals, articles, and surveys  
18 concerning Oral & Maxillofacial surgery that you, your spouse, or SOMS received from 1985  
19 through the present, including but not limited to, the Journal of Oral & Maxillofacial Surgery,  
20 Journal of the American Dental Association, and Compendium.  
21

22           RESPONSE:

23           Objection. Overbroad, unduly burdensome and harassing.

24       REQUEST FOR PRODUCTION NO. 28: Produce all documents concerning Don Dixon and/or  
25 Dixon Orthopedics.  
26

DEF.'S 1ST SET OF RFP OF DOCS. & INTERROG.  
TO PLF. ANNE ERICKSON & ANSWERS THERETO- 13  
Case No. C08-5745 FDB



1           RESPONSE:

2           Any responsive documents will be made available for inspection and copying at  
3 plaintiff's counsel's office at a mutually convenient time.

4           REQUEST FOR PRODUCTION NO. 29: Produce all documents concerning the pre-cordial  
5 stethoscope(s) used during your spouse's practice, including, but not limited to, instruction  
6 manuals, brochures, and invoices.

7           RESPONSE:

8           Any responsive documents will be made available for inspection and copying at  
9 plaintiff's counsel's office at a mutually convenient time.

10           REQUEST FOR PRODUCTION NO. 30: Produce all pre-cordial stethoscopes used in your  
11 spouse's practice from 1997 through the date you sold SOMS.

13           RESPONSE:

14           Any pre-cordial stethoscopes in plaintiffs' possession, custody or control will be made  
15 available for inspection and testing once an appropriate protocol has been established either  
16 through agreement by the parties or by order of the Court.

17           REQUEST FOR PRODUCTION NO. 31: Produce all documents concerning the noise output  
18 through the pre-cordial stethoscope during operation of the drills.

19           RESPONSE:

21           Plaintiff does not believe that any responsive documents exist.

22           REQUEST FOR PRODUCTION NO. 32: Produce all documents concerning any consultations  
23 with practice or business consultants, including but not limited to Dick Jackson.

24           RESPONSE:

25  
26  
DEF.'S 1ST SET OF RFP OF DOCS. & INTERROG.  
TO PLF. ANNE ERICKSON & ANSWERS THERETO- 14  
Case No. C08-5745 FDB



1 Any responsive documents will be made available for inspection and copying at  
2 plaintiff's counsel's office at a mutually convenient time.

3 REQUEST FOR PRODUCTION NO. 33: Produce all documents concerning any lawsuits  
4 against or brought by John Godulas.

5           RESPONSE:

6           Objection. Overbroad and unduly burdensome. This request is beyond the scope of  
7 proper discovery because the information it seeks is neither relevant nor reasonably calculated to  
8 lead to the discovery of admissible evidence. Furthermore, no responsive documents are  
9 believed to exist.

10          REQUEST FOR PRODUCTION NO. 34: Produce all documents concerning any lawsuits  
11 against or brought by Mark Paxton

12           RESPONSE:

13           Objection. Overbroad and unduly burdensome. This request is beyond the scope of  
14 proper discovery because the information it seeks is neither relevant nor reasonably calculated to  
15 lead to the discovery of admissible evidence. Furthermore, no responsive documents are  
16 believed to exist.

17          REQUEST FOR PRODUCTION NO. 35: Produce all documents concerning dosimetry studies  
18 prepared at the request of you, your spouse, or SOMS.

19           RESPONSE:

20           No responsive documents are believed to exist.

21          INTERROGATORY NO. 6: Identify everywhere that you and/or your spouse have traveled by  
22 airplane from January 1, 2000 to the present, including the location to which you traveled, the  
23 name of the hotel or place where you stayed, the dates of travel, and the purpose of the travel.

24  
25  
26  
DEF.'S 1ST SET OF RFP OF DOCS. & INTERROG.  
TO PLF. ANNE ERICKSON & ANSWERS THERETO- 15  
Case No. C08-5745 FDB



1 ANSWER:

2 Objection. Overbroad and unduly burdensome. This request is beyond the scope of  
3 proper discovery because the information it seeks is neither relevant nor reasonably calculated to  
4 lead to the discovery of admissible evidence.

5 In addition this request is improper because it is interposed for an improper purpose such  
6 as to harass plaintiffs.

7 INTERROGATORY NO. 7: Please list all of SOMS's fixed assets and their associated  
8 depreciation indicating the date acquired, cost of asset, and depreciation life.

9 ANSWER:

10 Objection. Overbroad and unduly burdensome. This request is beyond the scope of  
11 proper discovery because the information it seeks is neither relevant nor reasonably calculated to  
12 lead to the discovery of admissible evidence. Further, please see tax returns already produced or  
13 requested from the IRS.

14 REQUEST FOR PRODUCTION 36: Please produce all documents concerning or showing the  
15 base salary paid to you and/or your spouse by SOMS.

17 RESPONSE:

18 Any responsive documents will be made available for inspection and copying at  
19 plaintiff's counsel's office at a mutually convenient time.

20 REQUEST FOR PRODUCTION 37: Please produce all documents concerning all distributions  
21 taken by you and/or your spouse from SOMS.

23 RESPONSE:

24 Any responsive documents will be made available for inspection and copying at  
25 plaintiff's counsel's office at a mutually convenient time.

26 DEF.'S 1ST SET OF RFP OF DOCS. & INTERROG.  
TO PLF. ANNE ERICKSON & ANSWERS THERETO- 16  
Case No. C08-5745 FDB



1       REQUEST FOR PRODUCTION 38: Please produce all job improvement plans, work plans, or  
2 performance plans for all SOMS's employees from January 1, 2003 through the date that SOMS  
3 was sold.

4                  RESPONSE:

5                  No responsive documents are believed to exist.

6       REQUEST FOR PRODUCTION NO. 39: Please produce the PRC Manual, all marketing  
7 recommendations, suggestions, and critiques, referenced in Exhibit D to the Declaration of  
8 Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D. Wash. Case No. C06-5335-RJB).

9                  RESPONSE:

10                 To the extent any such documents exist they will be produced.

11       REQUEST FOR PRODUCTION NO. 40: Please produce the Phase 1 Implementation Plan for  
12 the Profitability Program, referenced in Exhibit D to the Declaration of Steven Teller, filed in  
13 *Forshey v. SOMS, Inc. et. al.* (W.D. Wash. Case No. C06-5335-RJB).

14                  RESPONSE:

15                 To the extent any such documents exist they will be produced.

16       REQUEST FOR PRODUCTION NO. 41: Please produce all documents concerning or showing  
17 SOMS's employees' job descriptions.

18                  RESPONSE:

19                 To the extent any such documents exist they will be produced.

20       REQUEST FOR PRODUCTION NO. 42: Please produce the procedure manual referenced in  
21 Exhibit D to the Declaration of Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D. Wash.  
22 Case No. C06-5335-RJB).

23  
24  
25  
26  
  
DEF.'S 1ST SET OF RFP OF DOCS. & INTERROG.  
TO PLF. ANNE ERICKSON & ANSWERS THERETO- 17  
Case No. C08-5745 FDB



1           RESPONSE:

2           To the extent any such documents exist they will be produced.

3           REQUEST FOR PRODUCTION NO. 43: Please produce the policy manual referenced in  
4           Exhibit D to the Declaration of Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D. Wash.  
5           Case No. C06-5335-RJB).

6           RESPONSE:

7           To the extent any such documents exist they will be produced.

8           REQUEST FOR PRODUCTION NO. 44: Please produce all procedural time studies referenced  
9           in Exhibit D to the Declaration of Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D.  
10           Wash. Case No. C06-5335-RJB).

11           RESPONSE:

12           To the extent any such documents exist they will be produced.

13           REQUEST FOR PRODUCTION NO. 45: Please produce the staff and gap analysis referenced  
14           in Exhibit D to the Declaration of Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D.  
15           Wash. Case No. C06-5335-RJB).

16           RESPONSE:

17           To the extent any such documents exist they will be produced.

18           REQUEST FOR PRODUCTION NO. 46: Please produce the all documents sent to SOMS's,  
19           your, or your spouse's liability insurance carrier.

20           RESPONSE:

21           Objection. Overbroad and unduly burdensome. This request is beyond the scope of  
22           proper discovery because the information it seeks is neither relevant nor reasonably calculated to  
23           lead to the discovery of admissible evidence.

24  
25  
26  
  
DEF.'S 1ST SET OF RFP OF DOCS. & INTERROG.  
TO PLF. ANNE ERICKSON & ANSWERS THERETO- 18  
Case No. C08-5745 FDB



1       REQUEST FOR PRODUCTION NO. 47: Please produce all documents produced by SOMS,  
2 you, or your spouse to SOMS and/or Dr. Erickson's malpractice insurance carrier.

3            RESPONSE:

4            Objection. Overbroad and unduly burdensome. This request is beyond the scope of  
5 proper discovery because the information it seeks is neither relevant nor reasonably calculated to  
6 lead to the discovery of admissible evidence.

7       REQUEST FOR PRODUCTION 48: Please produce records concerning the treatment of all  
8 patients seen by your spouse and/or SOMS from January 1, 2005 through the date that SOMS  
9 was sold. You may redact names and identifying information from the records.

10          RESPONSE:

11          No responsive records are in plaintiffs' possession, custody or control.

12       REQUEST FOR PRODUCTION NO. 49: Produce all documents concerning the "financial  
13 difficulty" mentioned by Dr. Nussbaum in her progress note dates December 17, 2009.

14          RESPONSE:

15          Objection. Vague. Plaintiffs have no way of knowing what records Dr. Nussbaum may  
16 believe supports her notation of "financial difficulty."

17       REQUEST FOR PRODUCTION 50: Please produce the OMS Policy Manual referenced in  
18 Exhibit D to the Declaration of Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D. Wash.  
19 Case No. C06-5335-RJB).

20          RESPONSE:

21          To the extent responsive documents exist they will be produced.

22          \\  
23          \\  
24          DEF.'S 1ST SET OF RFP OF DOCS. & INTERROG.  
25          TO PLF. ANNE ERICKSON & ANSWERS THERETO- 19  
26          Case No. C08-5745 FDB



1 ANSWERS DATED this 19th day of April, 2010.  
2  
3

4  
5 HAGENS BERMAN SOBOL SHAPIRO LLP  
6

7 By   
8

9  
10 Anthony D. Shapiro, WSBA No. 12824  
11 David P. Moody, WSBA No. 22853  
12 Martin D. McLean, WSBA No. 33269  
13 1918 Eighth Avenue, Suite 3300  
14 Seattle, Washington 98101  
15 Tel.: (206) 623-7292  
16 Fax: (206) 623-0594  
17 [tony@hbsslaw.com](mailto:tony@hbsslaw.com)  
18  
19  
20  
21  
22  
23  
24  
25  
26

Attorneys for Plaintiffs

DEF.'S 1ST SET OF RFP OF DOCS. & INTERROG.  
TO PLF. ANNE ERICKSON & ANSWERS THERETO- 20  
Case No. C08-5745 FDB



1 VERIFICATION  
2  
3 STATE OF WASHINGTON )  
4 COUNTY OF PIERCE ) ss.  
5  
6 I, Anne Erickson, certify under penalty of perjury under the laws of the State of Washington  
7 that the foregoing answers and responses are true and correct.  
8 DATED this 12<sup>th</sup> day of April, 2010.  
9  
10 SUBSCRIBED AND SWORD TO before me this 12<sup>th</sup> day of April, 2010.  
11  
12   
13 NOTARY PUBLIC in and for the State of  
14 Washington, residing at Seattle.  
15 My commission expires: 5-10-2012.  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

DEF.'S 1ST SET OF RFP OF DOCS. & INTERROG.  
TO PLF. ANNE ERICKSON & ANSWERS THERETO- 21  
Case No. C08-5745 FDB



1                   CERTIFICATE OF SERVICE

2                   The undersigned hereby certifies that she is an employee in the law offices of Hagens  
3                   Berman Sobol Shapiro LLP, and is a person of such age and discretion as to be competent to serve  
4                   papers.

5                   I hereby certify that on April 19, 2010, I served via messenger Defendant's First Set of  
6                   Requests for Production of Documents & Interrogatories to Plaintiff Anne Erickson on the  
7                   following:

8                   Ms. Emily Harris Gant  
9                   OGDEN MURPHY WALLACE P.L.L.C.  
10                  1601 Fifth Avenue, Suite 2100  
11                  Seattle, Washington 98101-1686

12                  Attorneys for Defendant MicroAire Surgical Instruments LLC

13                  DATED this 19th day of April, 2010.

14                    
15                  Laurie Cecil, Paralegal  
16                  Hagens Berman Sobol Shapiro LLP  
17                  1918 Eighth Avenue, Suite 3300  
18                  Seattle, Washington 98101  
19                  Telephone: (206) 623-7292  
20                  Facsimile: (206) 623-0594

21  
22  
23  
24  
25  
26  
  
DEF.'S 1ST SET OF RFP OF DOCS. & INTERROG.  
TO PLF. ANNE ERICKSON & ANSWERS THERETO- 22  
Case No. C08-5745 FDB

